

APPEAL NO. 032674
FILED DECEMBER 1, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 4, 2003. The hearing officer determined that the appellant's (claimant) compensable injury of _____, includes her lumbar, thoracic, and cervical spine, and right knee, but does not include the right hand; and that the claimant had disability from December 17, 2002, to February 3, 2003.

The claimant, in a letter dated September 23, 2003, states that she is "requesting. . . an appeal hearing." The file does not contain a response from the carrier.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the decision of the hearing officer was mailed to the claimant on August 15, 2003, under a cover letter of the same date. The claimant does not indicate when she received a copy of the hearing officer's decision. Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended August 29, 1999, unless the great weight of the evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed, or in this case Wednesday, August 20, 2003.

Section 410.202(a) provides that a request for appeal shall be filed not later than the 15th day after the date on which the hearing officer's decision is received. Rule 143.3(c) provides that a request for appeal is presumed to have been timely filed if it is mailed on or before the 15th day after the date of receipt of the hearing officer's decision and is received by the Commission not later than the 20th day after the date the hearing officer's decision is received. The last day for the claimant's appeal to have been timely mailed was Friday, September 12, 2003. Although the claimant's letter is dated September 23, 2003 (which is also untimely), the envelope containing the claimant's letter is postmarked September 30, 2003, over two weeks after the 15-day deadline specified in Rule 143.3(c), and the claimant's appeal is stamped as received by the Commission on October 8, 2003. The claimant's appeal is, therefore, untimely, having been mailed after September 12, 2003. We would further note that even if timely, the claimant's letter does not tell us what part or parts of the hearing officer's decision she is appealing or why.

The claimant's appeal being untimely, the decision of the hearing officer has become final. Section 410.169.

The true corporate name of the insurance carrier is **AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge